

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

Michael Tracy,

Plaintiff,

No. 2:14-cv-00713

v.

Verified Complaint

Convergent Outsourcing, Inc.,

Defendants.

Now comes Plaintiff Michael Tracy (hereinafter referred to as "Plaintiff"), by and through his attorneys, Fredrick Schulman & Associates, Attorneys at Law, and brings this action to recover monetary damages, and declaratory and injunctive relief, against Defendant Convergent Outsourcing, Inc. (hereinafter referred to as "Defendant"), arising from Defendant's violations of 15 U.S.C. §1692 *et seq.*, commonly referred to as the Fair Debt Collection Practices Act (hereinafter referred to as "FDCPA"), which prohibits debt collectors from engaging in false, deceptive, misleading, or unfair collection practices, and respectfully sets forth, complains and alleges, upon information and belief, the following:

PRELIMINARY STATEMENT

Complaint

1

FREDRICK SCHULMAN &
ASSOCIATES
Attorneys at Law
Attorney for Plaintiff
30 East 29TH Street
New York, New York 10016
(212) 796-6053

1 The FDCPA regulates the behavior of collection agencies attempting to collect a debt on
 2 behalf of another. The United States Congress has found abundant evidence of the use of
 3 abusive, deceptive, and unfair debt collection practices by debt collectors, and has determined
 4 that abusive debt collection practices contribute to a number of personal bankruptcies, marital
 5 instability, loss of jobs, and invasions of individual privacy. Congress enacted the FDCPA to
 6 eliminate abusive debt collection practices by debt collectors, to ensure that those debt collectors
 7 who refrain from using abusive debt collection practices are not competitively disadvantaged,
 8 and to promote uniform State action to protect consumers against debt collection abuses. 15
 9 U.S.C. §1692(a)-(e).
 10

11 The elements of an FDCPA claim are (1) the Plaintiff(s) is a consumer under 15 U.S.C.
 12 §1692a(3) or §1692c(d); (2) the debt at issue is a consumer debt under 15 U.S.C. §1692a(5); (3)
 13 the Defendant is a debt collector under 15 U.S.C. §1692a(6); and (4) that the Defendant has
 14 violated, through acts or omissions, some part of the FDCPA.
 15

16 **JURISDICTION AND VENUE**

17 1. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §1331, as well as 15 U.S.C.
 18 §1692 *et seq.* and 28 U.S.C. §2201. If applicable, the Court also has pendent jurisdiction over
 19 any State law claims in this action pursuant to 28 U.S.C. §1367(a).
 20

21 2. Venue is proper in this judicial district pursuant to 28 U.S.C. §1391(b).
 22

23 **PARTIES**

24 3. Plaintiff is a natural person and a resident of the State of Arkansas, Faulkner County.

25 Complaint

26 2

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1 4. At all relevant times herein, Plaintiff is a “consumer” as that term is defined in 15 U.S.C.
2 §1692a(3) of the FDCPA.

3 5. Upon information and belief, Defendant Convergent Outsourcing, Inc. (“Convergent”)
4 is a Washington corporation conducting business from offices located at 800 SW 39th Street
5 Renton, WA 98057.
6

7 6. Defendant regularly uses the mail and telephone in a business, the principal purpose of
8 which is the collection of debts.

9 7. Defendant regularly collects or attempts to collect debts for other parties, and therefore, is
10 a “debt collector” as the phrase is defined in 15 U.S.C. §1692a(6) of the FDCPA.
11

12 **FACTS**

13 8. In or around January 2014, Defendant commenced collection activities in an attempt to
14 collect an alleged debt (referred to hereinafter as the “Alleged Debt”) from Plaintiff originating
15 from a Verizon bill.

16 9. Upon information and belief, the nature of the Alleged Debt is the type of debt the
17 FDCPA was designed to regulate.
18

19 10. On or about January 14, 2014, Defendant placed a telephone call to Plaintiff in attempt to
20 collect the Alleged Debt.
21
22
23

11. During said telephone conversation, Defendant informed Plaintiff that the total Alleged Debt was nine hundred and four dollars (\$904) but if Plaintiff paid that day then the Alleged Debt could be settled for three hundred and sixty one dollars and seventy cents (\$361.70).

12. In response Plaintiff requested validation of the Alleged Debt.

13. Defendant then asserted that if Plaintiff requested any documentation then the settlement offer would be revoked.

14. On or about January 23, 2014, Defendant placed a telephone call to Plaintiff in attempt to collect the Alleged Debt.

15. In said telephone conversation Defendant failed to provide the required Mini-Miranda disclosures, that it was a debt collector and that the communication was an attempt to collect a debt when it called Plaintiff.

16. Upon information and belief, Plaintiff has previously paid the Alleged Debt.

17. Upon information and belief, to date, Plaintiff has not received any communication from Defendant in writing.

18. As a result of Defendant's violation of the FDCPA, Plaintiff is entitled to an award of statutory damages and all costs and reasonable attorney's fees pursuant to the relevant provisions of the FDCPA.

FIRST CAUSE OF ACTION
(Violations of 15 U.S.C §1692e)

Complaint

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19. Plaintiff repeats, reiterates, and incorporates the allegations contained in paragraphs numbered "1" through "18" herein with the same force and effect as if the same were set forth at length herein.

20. Defendant's conduct violated 15 U.S.C. §1692e, in that Defendant made false, deceptive, and/or misleading representations to Plaintiff regarding the Alleged Debt.

21. Specifically, Defendant stated that if Plaintiff requested any documentation then the settlement offer would be revoked.

22. As a result of the Defendants' violations of the FDCPA, Plaintiff has been damaged and is therefore entitled to damages in accordance with the FDCPA.

SECOND CAUSE OF ACTION
(Violations of 15 U.S.C §1692e(10))

23. Plaintiff repeats, reiterates, and incorporates the allegations contained in paragraphs numbered "1" through "22" herein with the same force and effect as if the same were set forth at length herein.

24. Defendant's conduct violated 15 U.S.C. §1692e(10) in that Defendant used false representation and deceptive means in attempt to collect the alleged debt when it stated that if Plaintiff requested any documentation then the settlement offer would be revoked.

25. As a result of the Defendants' violations of the FDCPA, Plaintiff has been damaged and is therefore entitled to damages in accordance with the FDCPA.

THIRD CAUSE OF ACTION
(Violations of 15 U.S.C §1692g(a))

Complaint

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26. Plaintiff repeats, reiterates, and incorporates the allegations contained in paragraphs numbered "1" through "25" herein with the same force and effect as if the same were set forth at length herein.

27. Defendant's conduct violated 15 U.S.C. §1692g(a) in that Defendant failed to send a 30-day validation notice to Plaintiff containing the Plaintiff's rights to dispute the debt and request validation, within 5 days of initial communication.

28. Upon information and belief, to date, Defendant has not sent such a notice to Plaintiff.

29. As a result of the Defendant's violations of the FDCPA, Plaintiff has been damaged and is therefore entitled to damages in accordance with the FDCPA.

FOURTH CAUSE OF ACTION
VIOLATION OF 15 U.S.C. § 1692f(1)

30. Plaintiff repeats, reiterates, and incorporates the allegations contained in paragraphs numbered "1" through "29" herein with the same force and effect as if the same were set forth at length herein.

31. Defendant's conduct violated 15 U.S.C. §1692f(1) in that Defendant attempted to collect an amount not authorized by an agreement and not permitted by law when it tried to collect the Alleged Debt which Plaintiff does not recall owing.

32. As a result of the Defendant's violations of the FDCPA, Plaintiff has been damaged and is therefore entitled to damages in accordance with the FDCPA.

FIFTH CAUSE OF ACTION
VIOLATION OF 15 U.S.C. § 1692e(11)

Complaint

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ASSOCIATES
Attorneys at Law
Attorney for Plaintiff
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New York, New York 10016
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33. Plaintiff repeats, reiterates, and incorporates the allegations contained in paragraphs numbered "1" through "32" herein with the same force and effect as if the same were set forth at length herein.

34. Defendant's conduct violated 15 U.S.C. §1692e(11) in that Defendant failed to provide the required Mini-Miranda disclosures, that it was a debt collector and that the communication was an attempt to collect a debt when it called Plaintiff.

35. As a result of the Defendant's violations of the FDCPA, Plaintiff has been damaged and is therefore entitled to damages in accordance with the FDCPA.

DEMAND FOR TRIAL BY JURY

36. Plaintiff respectfully requests a trial by jury for all claims and issues in this complaint.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Michael Tracy demands judgment against the Defendant Convergent Outsourcing, Inc. as follows:

- A. For statutory damages provided and pursuant to 15 U.S.C. Sec.1692k(2)(A);
- B. For attorneys' fees and costs provided and pursuant to 15 U.S.C. Sec. 1692k(a)(3);
- C. For a declaration that the Defendant is subject to the requirements of the FDCPA and its practices, as alleged herein, violated the FDCPA; and,
- D. For any such other and further relief, as well as further costs, expenses and disbursements of this action, as this Court may deem just and proper.

Complaint

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FREDRICK SCHULMAN &
ASSOCIATES
Attorneys at Law
Attorney for Plaintiff
30 East 29TH Street
New York, New York 10016
(212) 796-6053

1 Dated: New York, New York
2 March 19, 2014

3
4 Respectfully submitted,

5 By: /s/ Joshua Dabling

6 Attorney for Plaintiff
7 Fredrick Schulman & Associates
8 30 East 29TH Street
9 New York, New York 10016
10 Telephone (212)796-6053
11 Fax (212) 951-7379
12 Email: info@fschulmanlaw.com
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24 Complaint

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25 FREDRICK SCHULMAN &
26 ASSOCIATES
Attorneys at Law
Attorney for Plaintiff
30 East 29TH Street
New York, New York 10016
(212) 796-6053